

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

see form PCT/ISA/220

Date of mailing
(day/month/year) see form PCT/ISA/210 (page 2)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION

See paragraph 2 below

International application No.
PCT/DE2004/001630

International filing date (day/month/year)
7/22/2004

Priority date (day/month/year)
10/28/2003

International Patent Classification (IPC) or both national classification and IPC
B60K28/06, B60K31/00

Applicant
Robert Bosch GMBH

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis. I(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/

Authorized officer

Tamme, H-M

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/DE2004/001630

Box No. II Priority

1. ☒ The following document has not yet been furnished:

☒ copy of the earlier application whose priority has been claimed (Rules 43*bis*.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rules 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

Tamme, H-M

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International application No.
PCT/DE2004/001630

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	2 - 6	YES
	Claims	1	NO
Inventive step (IS)	Claims		YES
	Claims	1 - 6	NO
Industrial applicability (IA)	Claims	1 - 6	YES
	Claims		NO

2. Citations and explanations:

see supplementary page

**WRITTEN OPINION OF THE
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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

See supplementary page

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Supplementary Page

Re Point V.

Reasoned statement with regard to novelty, inventive step and industrial applicability; citations and explanations supporting such statement

1 Reference is made to the following documents:

D1: US 5357438 A

D2: WO 9514939 A

2 D1 discloses a device for fatigue warning in motor vehicles, having a driver sensor system (Claim 16) for detecting driver fatigue conditions and having a distance warning system (Claim 1, Figure 6A) which has an environment sensor system and is designed to output a warning signal and/or perform a regulating intervention in the drive and/or brake system of the vehicle when the distance to a preceding vehicle drops below a warning distance, the distance warning system having an (implicit) setting device which is designed for modifying the warning distance as a function of the fatigue condition detected (Claim 16).

D1 thus discloses all the features of Claim 1.

D2 also anticipates all the features of Claim 1.

3 Dependent Claims 2 through 6 contain no features which, in combination with the features of any claim to which they refer meet the requirements of PCT regarding inventive step. The reasons therefore are the following:

- 3.1 The object of Claim 1 relates to the establishment of the warning distance and is only one of several obvious options for determining the distance.
- 3.2 The object of Claims 3, 4, and 6 concerns variants for setting and activating the warning distance, which are essentially known and whose use in this special case represents no inventive step.
- 3.3 Regarding Claim 5, it is considered obvious to quantify a condition when needed, in this case the fatigue condition.

Re Point VIII

Specific notes to the international application

- 1 The object of Claim 1 is unclear. The first and/or-combination in the preamble also makes the variant of performing a regulation intervention possible. In this case there is a contradiction to the warning distance, because the system no longer operates as a warning system. Claim 1 therefore violates Article 6 PCT.